

Message Text

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PAGE 01 VALLET 01943 271346Z
ACTION L-03

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FM AMEMBASSY VALLETTA
TO TREASURY WASHDC
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UNCLAS VALLETTA 01943

E.O. 11652: N/A
TAGS: EFIN, MT, US
SUBJECT: US/MALTA INCOME TAX TREATY

REF: A) STATE 112003, B) VALLETTA 1025, C) FEINBURG/GLASS
- LETTER OF 05/10/78

1. EMBOFF MET RECENTLY WITH MR. EDWIN VELLA, GOM'S NEW COMMISSIONER OF INLAND REVENUE, TO DISCUSS REPORTEDLY MORE FLEXIBLE GOM POSITION ON SUBJECT OF A US/MALTA TAX TREATY. EMBOFF LEFT WITH VELLA COPY OF EMBASSY-DRAFTED POSITION PAPER "A US/MALTA TAX TREATY", WHICH WAS PREPARED ON THE BASIS OF VERY HELPFUL INFORMATION CONTAINED IN REF C. POSITION PAPER PROVIDES ELABORATION OF RATIONALE FOR CONTINUED USG UNWILLINGNESS TO ACCEPT TAX TREATIES CONTAINING "TAX SPARING" PROVISIONS AND INDICATES USG WILLINGNESS TO CONSIDER NEED TO LIMIT MALTESE REVENUE SACRIFICES FROM TREATY (SEE REF A). EMBASSY INTENDS TO DISTRIBUTE THIS POSITION PAPER TO OTHER GOM OFFICIALS CONCERNED WITH TAX TREATY ISSUE AND WILL POUCH COPIES TO TREASURY (FEINBERG) AND STATE (EUR/WE).

2. WHILE VELLA STATED HE WOULD PASS ALONG THE POSITION PAPER TO GOM MINISTER OF FINANCE ABELA, HE EXPRESSED DOUBT THAT THE GOM WOULD ABANDON ITS INSISTENCE ON THE INCLUSION OF "TAX SPARING" PROVISIONS IN ANY TREATY WITH THE US.

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VELLA STATED THAT MALTA'S VIEWPOINT, EMBODIED IN ALL OF THE TAX TREATIES IT HAS THUSFAR NEGOTIATED, IS THAT SUBSIDIARIES OF FOREIGN COMPANIES LOCATED IN MALTA ARE, FOR TAX PURPOSES, OUTSIDE THE JURISDICTIONS OF REVENUE AUTHORITIES IN THE COUNTRY WHERE THE HEADQUARTERS COMPANY IS LOCATED. VELLA MADE AN EXCEPTION FOR WHAT HE CALLED "SHAM COMPANIES" (I.E. COMPANIES ESTABLISHED FOR TAX AVOIDANCE

REASONS, AS OPPOSED TO COMPANIES WITH MANUFACTURING, WAREHOUSING AND OTHER BUSINESS OPERATIONS IN THE HOST COUNTRY), SAYING THAT MALTA WOULD RECOGNIZE FOREIGN TAX AUTHORITY OVER SUCH COMPANIES. HE MADE THE POINT THAT MALTA'S TAX TREATY WITH ITALY CONTAINS TAX SPARING PROVISIONS, ALTHOUGH HE NOTED THAT ITALY RESISTED THE INCLUSION OF TAX SPARING FOR MANY YEARS.

3. THE EMBASSY IS AWAITING THE GOM'S EVALUATION OF OUR POSITION PAPER AS WELL AS REPORTING OF THE RESULTS OF THE APPROACH TO THE TREASURY THAT MALTESE CHARGE AGIUS IS EXPECTED TO MAKE (REF B). BASED ON THE MEETING WITH VELLA, HOWEVER, IT APPEARS THAT UNSUBSTANTIATED INDICATIONS OF FLEXIBILITY ON THE "TAX SPARING" ISSUE (REPORTED REF A) ARE NOT SHARED BY THE COMMISSIONER OF INLAND REVENUE. LAINGEN

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